



Legislative Research Council

SOUTH DAKOTA CODE COMMISSION MINUTES

One hundred fifteenth Meeting
Monday, January 26, 2015
3:00 p.m.

Room 499
Fourth Floor, State Capitol Bldg.
Pierre, SD

The one hundred fifteenth meeting of the South Dakota Code Commission was called to order by Chair Michael DeMersseman at 3:00 p.m., January 26, 2015, in Room 499 of the State Capitol Building, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Commissioners Michael DeMersseman (Chair), Margaret Gillespie (Vice Chair), Tom Lee, and Arthur Rusch. Commissioner Brian Gosch joined the meeting following the roll call.

Staff members present were Doug Decker, Code Counsel, and Kris Schneider, Senior Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council (LRC). For the purpose of continuity, these minutes are not necessarily in chronological order.

Approval of Minutes

Commissioner Lee moved, seconded by Commissioner Gillespie, to approve the minutes of the June 18, 2014, meeting. Motion prevailed on a voice vote.

Appointments to Code Commission

Chair DeMersseman welcomed Senator Arthur Rusch who was recently appointed to the Code Commission by the President Pro Tempore. Commissioner Brian Gosch was also reappointed by the Speaker of the House. Both appointments are for a two-year term.

Codification and Other Issues

Initiated Measure 17

An initiated measure to require health insurers to include all willing and qualified health care providers on their provider lists.

Mr. Doug Decker, Code Counsel, provided background on why and where Initiated Measure 17 (IM 17) was placed under Title 58 – Insurance in the Code. Initiated Measure 17 became effective November 13, 2014, the day after the election was canvassed. Due to the urgency of codification with the publisher, the subject matter, and conversations with various

interested parties, the decision was made to place IM 17 in Title 58. The topic was placed on the agenda due to comments that it should be placed elsewhere.

Chair DeMersseman commented that it is the commission's responsibility to place the laws in the Code where they can be found. The commission does not make or interpret the laws.

Public Testimony

Senator R. Blake Curd, Sioux Falls, stated that IM 17 was originally House Bill 1142 from the 2013 Legislative Session – *An Act to promote patient choice in selecting health care providers*. He provided background information on the defeat of House Bill 1142. The issue with the placement of the measure in Title 58 is the interpretation and whether it applies to government health plans. He stated that the placement in the Code does not nullify the law however one interpretation applied to the codification of the law could create a conflict. With passage of IM 17 it is clear that patient choice was to apply to the state health plan. Thus he suggested the possible placement in an entirely new title so IM 17 would apply to the state health plan. Currently the IM 17 interested parties are working with the Governor's office and expect to work something out on this matter. He asked the Code Commission not to make any changes.

Mr. Justin Bell, Pierre, Attorney, representing the South Dakota State Medical Association (SDSMA), distributed a letter dated January 26, 2015, from Dr. Mary Milroy, President of the SDSMA. The letter states that it is their opinion that placement in Title 58 limits the scope of IM 17 and is requesting that it be placed elsewhere (**Document 1**). Mr. Bell stated that they agree with the prior testimony of Senator Curd.

The commission took no action regarding Initiated Measure 17.

Rules of Evidence

Mr. Decker stated that the Supreme Court had noticed in the December issue of the State Bar newsletter amendment of several rules of evidence. This created an opportunity to make the South Dakota Rules of Evidence statutory numbering correspond with the Federal Rules of Evidence and by doing so a pamphlet published by Thompson West would no longer be needed. **Ms. Lila Hambleton**, Editor with Thompson West, (appearing telephonically) briefly explained the proposed changes.

Mr. Decker stated a letter would be printed in the next State Bar newsletter explaining the change. A sample letter was distributed to the members (**Document 2**).

Commissioner Rusch moved, seconded by Commissioner Lee, to approve the changes proposed to the publication of the South Dakota Rules of Evidence. Motion prevailed on a voice vote.

Shannon County Name Change

In response to a question on what statutory amendments are needed to change the name of Shannon County, Mr. Decker responded that approximately thirty statutes and several administrative rules would need to be amended. He is expecting a bill to be introduced that would direct such changes.

Commissioner Gosch commented that the Governor's office has a bill drafted that would change the statutes as the result of the county vote and that the Legislature is working on a joint resolution regarding the county name change. The fiscal impact of the change is approximately \$400,000.

Next Meeting Date

The next meeting will be held in conjunction with the State Bar convention in Rapid City in June.

Adjournment

There being no other business, *Commissioner Gillespie moved, seconded by Commissioner Lee, to adjourn. Motion prevailed on a voice vote.*

The chair adjourned the meeting at 3:33 p.m.

